

HELEN J. LUMLEY AND KIRSTEN-JESSEN SCHMIDT

JULY 3 (legislative day, JUNE 27), 1952.—Ordered to be printed

Mr. McCARRAN, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 2774]

The Committee on the Judiciary, to which was referred the bill (H. R. 2774) for the relief of Helen J. Lumley and Kirsten-Jessen Schmidt, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

PURPOSE OF THE BILL

The purpose of the bill is to grant the status of permanent residence in the United States to Helen J. Lumley and Kirsten-Jessen Schmidt. The bill provides for appropriate quota deductions and for the payment of the required visa fees and head taxes.

STATEMENT OF FACTS

The beneficiaries of the bill are mother and daughter who were born in Copenhagen, Denmark, on June 22, 1913, and December 10, 1940, respectively. They last entered the United States as visitors on May 8, 1950. The adult beneficiary was married to a United States citizen on May 28, 1950, and they are presently parties to a divorce suit. In view of this situation the beneficiaries of the bill are not eligible for administrative relief.

A letter dated May 16, 1951, to the chairman of the Committee on the Judiciary of the House of Representatives from the Deputy Attorney General with reference to the case reads as follows:

MAY 16, 1951.

HON. EMANUEL CELLER,
*Chairman, Committee on the Judiciary,
House of Representatives, Washington, D. C.*

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Department of Justice relative to the bill (H. R. 2774) for the relief of Mrs. Helen J. Lumley and her daughter, Kirsten-Jessen Schmidt, aliens.

The bill would provide that Helen J. Lumley shall be considered to have been lawfully admitted to the United States for permanent residence as of the date of her last entry, upon payment of the required visa fee and head tax. It would also direct the Secretary of State to instruct the quota-control officer to deduct one number from the appropriate immigration quota. The name of Mrs. Lumley's daughter does not appear on the bill. The author of the bill, however, has indicated that her name is to be added by amendment.

The files of the Immigration and Naturalization Service of this Department disclose that the aliens are natives and citizens of Denmark, Mrs. Lumley having been born in Copenhagen, Denmark, on June 22, 1913, and her daughter, also in Copenhagen, on December 10, 1940. They last entered the United States at the port of New York, on May 8, 1950, when they were admitted as visitors, under section 3 (2) of the Immigration Act of 1924, until September 1950. Warrants of arrest in deportation proceedings were issued against them and on April 6, 1951, it was recommended that they be deported to Denmark. On May 28, 1950, Mrs. Lumley, who was Mrs. Hedvig Jessen-Schmidt, nee Jensen, a divorcee, when she entered this country, was married to Dr. William J. Lumley of Prospect Harbor, Maine. Dr. Lumley was born in England on February 29, 1904, and came to this country in 1914. He claims to have derived United States citizenship through the naturalization of his father on September 15, 1919. Dr. Lumley has two minor children by a former marriage, which terminated in divorce on April 23, 1949. He has the custody of the children and they resided with him and Mrs. Lumley until Dr. and Mrs. Lumley separated on August 16, 1950. Mrs. Lumley and her daughter now reside in Newport, Maine. Mrs. Lumley is suing for divorce, and in a suit for separate maintenance the court ordered her husband to pay her \$30 a week. She stated that he paid this amount for about 6 weeks, but later reduced the amount because he claimed he was unable to pay her more.

It appears that Dr. and Mrs. Lumley met in the fall of 1949, when she was in this country as a temporary visitor. She departed for Denmark in January 1950, after which she and Dr. Lumley corresponded. According to Mrs. Lumley, Dr. Lumley urged her to return to the United States for the purpose of marriage. The files further reflect that Mrs. Lumley, who is a music teacher, stated that she has been offered a position as governess and music teacher in a private home in New York City. She also stated that upon her marriage to Dr. Lumley she sacrificed the alimony which she had been receiving from her first husband. Her child still receives an allowance of 1,500 kroner from her father.

The quota for Denmark, to which the aliens are chargeable, is oversubscribed and immigration visas are not readily available. Mrs. Lumley, as the wife of a citizen of the United States, would be entitled to a nonquota status under section 4 (a) of the Immigration Act of 1924, upon approval of a petition for the issuance of a visa filed by her citizen husband in her behalf. Since they are separated, however, and it appears that there is little likelihood of a reconciliation, it is not likely that Dr. Lumley would file a petition for her. Therefore, in the absence of special legislation the aliens will apparently be unable to adjust their immigration status. The record fails, however, to present considerations sufficient to justify the enactment of special legislation in their behalf.

Accordingly, this Department is unable to recommend enactment of the measure.

Yours sincerely,

PEYTON FORD,
Deputy Attorney General.

Senator Margaret Chase Smith submitted to the chairman of the Senate Committee on the Judiciary the following statement in connection with S. 71, which was a companion bill introduced in the Senate by Senator Smith:

STATEMENT OF S. 71

On May 28, 1948, Mrs. Hedvig Jessen-Schmidt of Copenhagen, Denmark, and her daughter, Kirsten Jessen-Schmidt, entered this country on a visitors permit (No. 361091). While in this country, she became engaged to Dr. William Lumley of Prospect Harbor, Maine, and returned to Denmark to make preparations for her marriage to Dr. Lumley and to take up permanent residence in this country. Because of ill-advised counsel, she returned to this country on a visitor's permit (No. 373883) on May 8, 1950, and was married to Dr. Lumley on May 28, 1950.

Her visitor's permit expired about September 1, 1950, and she applied for a 6-month extension through the Immigration Office in Bangor, Maine. The district director of immigration at St. Albans, Vt., denied the application and ordered them to leave the country by September 30, 1950, whereupon Mrs. Lumley applied for suspension of deportation proceedings.

On December 5, 1950, a bill, S. 4222, for the relief of Helen J. Lumley, was introduced by Senator Margaret Chase Smith but no action was taken before the expiration of the Eighty-first Congress. On January 8, 1951, this bill was reintroduced and is now S. 71. It is pending before the Senate Judiciary Committee.

On January 19, 1951, Senator Smith recommended to the chairman of the Judiciary Committee of the Senate and to the Acting Commissioner of Immigration and Naturalization Service that Mrs. Lumley's minor daughter Kirsten Jessen-Schmidt, be included in S. 71, as having been lawfully admitted to the United States for permanent residence.

At a deportation hearing held on January 19, 1951, by the Immigration and Naturalization Service at Bangor, Maine, the counsel for Mrs. Lumley and her daughter, Kirsten Jessen-Schmidt, requested suspension of said hearing until final action has been taken by Congress on S. 71.

The committee, after consideration of all the facts in the case, is of the opinion that the bill (H. R. 2774) should be enacted.

